

REMARKS

The Restriction Requirement lists the following inventions:

Group I: Claims 49, 51-58, 60-63, and 65-83, drawn to recombinant attenuated RSV virus with a modification to the M2-2 open reading frame, classified in class 435, subclass 236;¹

Group II: Claims 49, 51-58, 60-63, and 65-83, drawn to recombinant attenuated RSV virus with a modification to the SH gene, classified in class 435, subclass 236;

Group III: Claims 49, 51-58, 60-63, and 65-83, drawn to recombinant attenuated RSV virus with a modification to the NS1 gene, classified in class 435, subclass 236; and

Group IV: Claims 49, 51-58, 60-63, and 65-83, drawn to recombinant attenuated RSV virus with a modification to the NS2 gene, classified in class 435, subclass 236.

Although Inventions I-IV are patentably distinct, they are directed to similar subject matter. According to M.P.E.P. Section 803:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct invention.

The subject matter of Inventions I-IV are related; searching all of these groups together would not place a serious burden on the Examiner within the meaning of M.P.E.P. Section 803 because a general search of the subject matter encompassed by the claims of Inventions I-IV would necessarily produce results within Inventions I and IV. The fact that all four Inventions are classified in the same subclass also demonstrates that the four inventions can be examined together.

In view of the comments presented above, Applicants respectfully request reconsideration of the restriction requirement, and that Inventions I-IV be examined together.

¹ Although the restriction requirement states "MS-2 open reading frame," Applicants believe that this is a typographical error, and Group I should recite "M2-2 open reading frame" (see, e.g., claim 72).

Applicants retain the right to petition from the restriction requirement under 37 C.F.R. §1.144.

However, in order to be fully responsive to the restriction requirement, Applicants hereby elect Invention I, Claims 49, 51-58, 60-63, and 65-83, drawn to recombinant attenuated RSV virus with a modification to the M2-2 open reading frame, classified in class 435, subclass 236.

Applicants note that claims 49, 51-58, 60-63, and 65-83 are linking claims with respect to Inventions I-IV. Accordingly, once elected Invention I is found allowable, the claims will be examined with respect to the non-elected subject matter (M.P.E.P. §§ 809.03 and 809.04).

Applicants respectfully request that the remarks made herein be entered and made of record in the file history of the instant application.

It is not believed that any fee other than the fee for extension of time is required for the present response. However, if any additional fee should be required, please charge any such fee(s) to Deposit Account No. 50-3013.

Respectfully submitted,

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